



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

July 3, 2013

U.S. Army Corps of Engineers
c/o Eric Summa
Jacksonville District
Post Office Box 4970
Jacksonville, Florida 32232-0019

Permit Modification No.0251706-003-JN
Permit No.0251706-001-JC, St. Johns County
St. Augustine Inlet and AIWW Maintenance Dredging Project
Beach Placement Template Modification

Dear Mr. Summa:

Your request to modify Permit No. 0251706-001-JC was received on May 30, 2013, and has been reviewed by staff of the Department of Environmental Protection (Department). The proposed permit modification is to extend the authorized beach disposal template approximately 5,000 feet to the north, from Department monument R-132 to R-127+250 feet. This permit modification is effective for one dredging event only.

Permit Background

On September 6, 1995, the Department issued a 10-year Wetland Resource Permit (No. **552444459**) to the U.S. Army Corps of Engineers (Corps). The permit authorized the maintenance dredging of the St. Augustine Inlet and the Atlantic Intracoastal Waterway (AIWW). The beach compatible dredged material was placed on the beach and in the nearshore disposal area between R-136 and R-148.

On April 16, 1996, the Department issued a modification to Permit No. 552444459. The modification included changes to three conditions of the permit. First, the permit required the submittal of a 10-year maintenance dredging schedule, which was waived due to the variability in shoaling conditions and funding availability. Second was a requirement to conduct a topographic and bathymetric survey of the nearshore disposal area and the beach placement site. The requirement to survey the nearshore disposal area was removed from this condition. Finally, the permit required implementation of best management practices to control turbidity, including the use of temporary, shore-parallel berms situated landward of the MHW line to prevent runoff from the hydraulic discharge from flowing directly into the Ocean. The condition was modified

to allow the berm to be situated between the MHW line and the MLW line. The modification also reduced the frequency for turbidity monitoring required by the permit.

On April 16, 1997 the Department issued a second modification to Permit No. 552444459. The modification authorized a northern extension of the beach disposal area, from R-136A to R-132, for a single event. Approximately 25,000 cubic yards of material were placed in the authorized location.

On September 24, 1998, the Department issued a third modification to Permit No. 552444459. The permit was modified to include the dredging of the flood tidal shoal (inside St. Augustine Inlet), the extension of the beach disposal area northward from R-136A to R-134A, the reconstruction of the primary dune between R-135A and R-138A (in Anastasia State Park), and the authorization of beach and submerged pipeline access routes.

On October 26, 1998, the Department issued variance number **VE-55-731**. The variance authorized elevated turbidity levels within the Anastasia State Recreation Area. Turbidity levels were not to exceed 29 NTUs above background levels at the edge of the 150-meter mixing zone.

On October 15, 1999, the Department issued a fourth modification to Permit No. 552444459 to expand the limits of the north shoal dredging area by approximately 200 feet. The modification also expanded the beach placement and dune reconstruction area further north and south within the Anastasia State Recreation Area.

On December 8, 2010, the Department issued Joint Coastal Permit No. **0251706-001-JC**, to the Corps to conduct maintenance dredging of the St. Augustine Inlet Entrance Channel, and to conduct new dredging of encroaching shoals adjacent to the navigation channel. Beach compatible sand was placed on the beach south of St. Augustine Inlet, from R-132 and R-152. Sandy material that did not meet the criteria for beach placement was disposed of in a nearshore site (between R-142 and R-148); in depths ranging from -12 feet mean lower low water (MLLW) to -20 feet MLLW. The beach disposal template for the permit is over-sized related to the anticipated volume of dredged material, allowing for placement of dredged material in areas within the fill template with the greatest need for nourishment.

For additional background, please see the *Consolidated Notice Of Intent To Issue Joint Coastal Permit And Authorization To Use Sovereign Submerged Lands* for Permit No. 0251706-001-JC at the following website:

http://bcs.dep.state.fl.us/env-prmt/st_john/issued/0251706_St.%20Augustine_%20Inlet/001-JC/Intent/

On September 2, 2005, the Corps requested a minor modification (File No. **0251706-002-DF**), to extend the expiration date of Permit No. 552444459. This modification request was withdrawn.

The current application for Modification No. **0251706-003-JN** proposes to extend the beach fill template authorized in Permit No. 0251706-001-JC by approximately 5,000 feet to the north, from R-132 to R-127, within Anastasia State Park, during the 2013 dredging event only. Approximately 100,000 cubic yards of dredged material is anticipated to be placed in the new disposal area.

Justification/Necessity

The proposed activity was requested by the Department's Division of Recreation and Parks due to substantial storm-related erosion on the subject portion of the beach in Anastasia State Park. Storm-related erosion has caused beach recession, with possible adverse impacts to Park infrastructure. The activity will not alter the permitted, cross-sectional design of the project.

Staff Assessment of Modification

The Applicant originally requested that the fill template be extended the full length of the Park; however, known cultural resources prohibited extending the fill north of R-127. In association with maintaining navigability of the St. Augustine Inlet, the project is expected to provide protection to infrastructure within Anastasia State Park and maintain public access to the park's beach. The construction of the activity is not expected to result in violations of water quality standards outside of the mixing zone. The dredge area does not include seagrasses, mangroves, or hardbottom, and should not result in new impacts to water quality or environmental resources.

Permit Modification Language

The project location shall be revised as follows (~~strikethroughs~~ are deletions, underlines are additions):

The project area is located in St. Johns County. The dredging sites are located in Sections 5, 8, and 9, Townships 6 South and 7 South and, Range 30 East, in the Atlantic Ocean (Class III Waters), St. Augustine Inlet (Class II waters) and the Tolomato River (Class II waters). The shoals that will be dredged outside of the channels are located at the intersection of the AIWW and the St. Augustine Inlet Entrance Channel, between STA. 11 + 17.70 and STA. 13 + 40.90, and at Vilano Point. The beach placement site and the nearshore disposal site are located in the Atlantic Ocean (Class III waters), south of St. Augustine Inlet, at Anastasia State Park, in Sections 3, 10, 27, and 34, Townships 7 South and 8 South, and Range 30 East. The beach placement site extends from DEP monument R-132 to R-152, except in 2013 when the beach placement site extends from DEP monument R-127 to R-152, and the nearshore disposal site extends from DEP

monument R-142 to R-148. The shell hash placement area is located in Anastasia State Park, from approximately 800 feet north of R-130 to R-132.

The set of approved permit drawings shall be revised as follows:

The attached design authentication sheet dated June 25, 2013, and three permit drawings numbered C-01 through C-03 shall be appended to the set of approved permit drawings.

After thorough review of your application, staff finds that the proposed modification is not expected to adversely affect water quality or be contrary to the public interest. Staff has also determined that the proposed alteration does not increase the potential for adverse impact on the coastal system, public beach access seaward of the mean high water line or nesting sea turtles and hatchlings and their habitat, and that the proposed alteration does not reduce the design adequacy of the project. Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation, the **permit is hereby modified** as stated above. By copy of this letter and the attached drawings, we are notifying all necessary parties of the modification.

This letter of approval does not alter the December 8, 2020 expiration date, Specific Conditions or monitoring requirements of the permit. This letter and the attached drawing must be attached to the original permit.

This permit is hereby modified unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, Florida Statutes (F.S.), as provided below. The procedures for petitioning for a hearing are set forth below. Mediation under Section 120.573, F.S., is not available for this proceeding.

NOTICE OF RIGHTS

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in further modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit modification automatically becomes only proposed agency action on the application subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit modification until the

deadlines noted below for filing a petition for an administrative hearing or request for an extension of time has expired.

Under Rule 62-110.106(4), Florida Administrative Code (F.A.C.), a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding judge upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first.

Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

In accordance with Rule 28-106.201, F.A.C., a petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the

- address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
 - (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
 - (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
 - (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This permit modification constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 62-110.106, F.A.C., a person may request a copy of the agency action. The Department shall upon receipt of such a request, if agency action has occurred, promptly provide the person with notice. The Department does not require notice of this agency action to be published. However, the applicant may elect to publish notice as prescribed in Rule 62-110.106, F.A.C., which constitutes notice to the public and establishes a time period for submittal of any petition.

If you have any questions regarding this matter, please contact Tom Jacobs by email at Thomas.Jacobs@dep.state.fl.us, or by telephone at (850) 413-7785.

Sincerely,



Martin K. Seeling, Administrator
Beaches, Inlets & Ports Program

MKS/twj

Attachment: Drawings

cc: Danielle Irwin, DWRM
Martin Seeling, DWRM
Roxane Dow, DWRM
Robert Brantley, DWRM
Ralph Clark, DWRM
Alex Reed, DWRM
Guy Weeks, DWRM
David Courson, DWRM
David Kriger, DWRM
Trey Hatch, DWRM
Drs. Shirley and Love, GTMNERR
Geoff Krug, Corps
Irene Sadowski, Corps
Andrew Ames, St. Johns County
Robbin Trindell, FWC
Mary Duncan, FWC
Alex Kropp, FWC
Melissa Long, DEP, Northeast District
JCP Compliance
Jeff Howe, USFWS
BIPP File
George Getsinger, NMFS, Jacksonville
Eric Hughes, USEPA, Jacksonville

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



7/3/2013

Deputy Clerk

Date